UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,740	10/06/2006	Yoshio Kawakami	P30925	3488

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER
KENDALL, CHUCK O

ART UNIT	PAPER NUMBER
2192	

NOTIFICATION DATE	DELIVERY MODE
08/20/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
pto@gbpatent.com

	Application No.	Applicant(s)
Office Action Summary	10/599,740	KAWAKAMI ET AL.
	Examiner	Art Unit	
	CHUCK O. KENDALL	2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 October 2006</u>.

2a)☐ This action is **FINAL**.　　　　2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-34</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-34</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　　1.☐ Certified copies of the priority documents have been received.

　　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date <u>02/16/07,04/02/07,12/23/08</u>.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

Detailed Action

1.   This is in response to application filed 10/06/06.

2.   Claims 1 – 34 have been examined.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5.   Claims 1 – 34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 28, 30 – 32 discloses a computer readable medium however Applicants specification defines in the specification that the computer readable medium includes transmission type media. Transmission type media is considered as a source of energy and as such is categorized as any acceptable form of patentable subject matter.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in

this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5.   Claims 1-34 are rejected under 35 U.S.C. 102(e) as being anticipated

by Sarfati US 6,970,960 B1.

        Claims 1, 16, 22, 23 and 27 – 34, a program execution device that

executes a program, said program execution device comprising:

        a first program selection unit operable to select, as a program to be

executed, a program which is downloaded and executed (2:32 – 52);

        a program monitoring unit operable to monitor an operational state of

a currently executed program (FIG. 13A – FIG. 13B, see all associated text);

        a second program selection unit operable to select, as a program to be

executed, a program that is of the same type as the currently executed

program, in the case where abnormal termination of the currently executed

program is detected by said program monitoring unit (5:30 – 67);

an execution unit operable to execute the program selected by said

first program selection unit and, in the case where abnormal termination of

the currently executed program is detected by said program monitoring unit,

to execute the program selected by said second program selection unit (5:30

– 67);

a cause obtainment unit operable to obtain a cause of the abnormal

termination of the program detected by said program monitoring unit (5:30

– 67); and

a countermeasure execution unit operable to execute a

countermeasure based on the cause of the abnormal termination, wherein

said execution unit is operable to execute the program selected by said

second program selection unit, after the countermeasure is executed by said

countermeasure execution unit (5:30 – 67).

Regarding claims 2 and 17, the program execution device according to

claim 1, wherein said second program selection unit is operable to select, as

the program to be executed, a program which is different from the program

selected by said first program selection unit (5:55 – 67, see data loader and

different data loader).

Regarding claim 3, the program execution device according to claim

wherein said second program selection unit is operable to select, as the

program to be executed, a program which is the same as the program

selected by said first program selection unit (5:10 - 67).

Regarding claim 4, the program execution device according to claim 1,

wherein said second program selection unit is operable to select, as the

program to be executed:

a program which is the same as the program selected by said first

program selection unit, in the case where a predetermined condition is not

satisfied (5:50 – 67); and

a program which is different from the program selected by said first

program selection unit, in the case where the predetermined condition is

satisfied (5:50 – 67).

Regarding claims 5 and 24, the program execution device according to

claim 4, wherein said second program selection unit is operable to perform

selection in the case where the predetermined condition is whether or not

the number of abnormal terminations of the program which said program

monitoring unit has detected as having abnormally terminated exceeds a

predetermined numbers and to determine that:

the predetermined condition is not satisfied in the case where the

number of abnormal terminations of the program does not exceed the

predetermined number (5:20 – 6:67); and

the predetermined condition is satisfied in the case where the number

of abnormal terminations of the program exceeds the predetermined number

(5:20 – 6:67).

Regarding claim 6, the program execution device according to claim 4,

wherein said second program selection unit is operable to perform selection

in the case where the predetermined condition is whether or not the number

of times a program to be selected has been selected exceeds a

predetermined number, and to determine that:

the predetermined condition is not satisfied in the case where the

number of times the program has been selected does not exceed the

predetermined number (6:15 – 67); and

the predetermined condition has been satisfied in the case where the

number of times the program is selected exceeds the predetermined number

(6:15 – 67).

Regarding claims 7 and 22, the program execution device according to

claim 4, wherein said second program selection unit is operable to perform

selection under an assumption that time information is the predetermined

condition (6:15 – 67).

Regarding claim 8, the program execution device according to claim 4,

wherein said second program selection unit is operable to perform selection

under an assumption that:

the predetermined condition is whether or not an instruction from a

user is received (FIG. 13B and all associated text);

the predetermined condition is not satisfied in the case where the

instruction from the user is not received (FIG. 13B and all associated text);

and

the predetermined condition is satisfied in the case where the

instruction from the user is received (FIG. 13B and all associated text).

Regarding claims 9 and 18, the program execution device according to

claim 1, wherein said second program selection unit is operable to select, as

the program to be executed, a program in a non-volatile memory (2:50 –

65).

Regarding claim 10 and 19, the program execution device according to

claim 1, wherein one of said first program selection unit and said second

program selection unit is operable to select, as the program to be executed,

a program that can be acquired via a network (5:15 – 6:67).

Regarding claims 11 and 20, the program execution device according

to claim 1, wherein one of said first program selection unit and said second

program selection unit is operable to select, as the program to be executed,

a program that is included in a broadcast wave (5:15 – 6:67).

Regarding claims 13 and 21, the program execution device according

to claim 11 wherein said program monitoring unit is operable, upon

detecting abnormal termination of the currently executed program, to

present an occurrence of the abnormal termination to a user (5:15 – 6:67).

Regarding claim 14, the program execution device according to claim

1, wherein said program monitoring unit is operable to present the abnormal

termination occurrence to a user, using an LED display(5:15 – 6:67).

Regarding claim 15, the program execution device according to claim

1, wherein said program monitoring unit is operable to present the abnormal

termination occurrence to a user, using a display on a display screen (5:15 –

6:67).

Regarding claim 25, the program execution device according to claim 24, wherein said program monitoring unit is operable to store the information in a removable recording medium (FIG. 3).

Regarding claim 26, the program execution device according to claim 24, wherein said program monitoring unit is operable to transmit the information to an external destination (FIG.3 and associated text).

Correspondence Information

6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-272-3698. The examiner can normally be reached between Monday and Thursday, at 11:00 am - 4:300pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained

from the Patent Application Information Retrieval (PAIR) system. Status

information for published applications may be obtained from either Private

PAIR or Public PAIR. Status information for unpublished applications is

available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on

access to the Private PAIR system, contact the Electronic Business Center

(EBC) at 866-217-9197 (toll-free).

/Chuck O Kendall/

Primary Examiner, Art Unit 2192